

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 02-2517

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Donnell W. Durley,

Appellant,

v.

Anheuser-Busch, Inc.,

Appellee.

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Appeal from the United States  
District Court for the  
Eastern District of Missouri.

**[UNPUBLISHED]**

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Submitted: November 6, 2002  
Filed: November 13, 2002

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Before LOKEN, BYE, and RILEY, Circuit Judges.

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PER CURIAM.

Donnell W. Durley was discharged from his employment with Anheuser-Busch, Inc. (Anheuser-Busch), after he incurred three unexcused absences following a history of discipline for unexcused absences. Durley brought this action under 42 U.S.C. § 1981, the Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621, et seq., and Missouri law, claiming that he had been retaliated against for filing a prior race-discrimination lawsuit and discriminated against and harassed because of his age. The district court<sup>1</sup> granted summary judgment to Anheuser-Busch, and

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<sup>1</sup>The HONORABLE CAROL E. JACKSON, Chief Judge, United States District Court for the Eastern District of Missouri.

Durley appealed. After careful de novo review of the record, see Mathews v. Trilogy Communications, Inc., 143 F.3d 1160, 1163 (8th Cir. 1998), we affirm.

Durley abandoned his age-discrimination claims by failing to raise them in his appellate brief. See Burke v. N.D. Dep't of Corr. & Rehab., 294 F.3d 1043, 1044 (8th Cir. 2002) (per curiam). Further, even assuming Durley established a prima facie case of retaliation, he failed to create a jury issue on whether Anheuser-Busch's legitimate, nondiscriminatory reason for his discharge was merely a pretext. See Buettner v. Arch Coal Sales Co., 216 F.3d 707, 714 (8th Cir. 2000), cert. denied, 531 U.S. 1077 (2001).

Accordingly, we affirm. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.